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PATENT  
MAXIM-01600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Matthew Waight et al.

Serial No.: 10/799,900

Filed: March 12, 2004

For: **ELECTRONICALLY TUNED  
AGILE INTEGRATED BANDPASS  
FILTER**

) Group Art Unit: 2618

) Examiner: Tran, Pablo N.

) **PETITION TO CLAIM BENEFIT  
UNDER 35 U.S.C. 119(e) OF PRIOR  
FILED PROVISIONAL APPLICATION**

) 162 North Wolfe Road  
) Sunnyvale, California 94086  
) (408) 530-9700

) Customer No.: 79,206

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition in accordance with 37 C.F.R. § 1.78(a)(6), to claim the benefit, for this application under 35 U.S.C. 119(e) of prior Provisional Application No. 60/460,495 filed April 3, 2003.

1. The entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the date this claim is filed was unintentional as evidenced by the declarations of Brian R. Coleman and Thomas B. Haverstock.

2. The surcharge fee set forth in § 1.17(t), required by 37 C.F.R. § 1.78(a)(6)(ii), is paid as follows: An enclosed check in the amount of \$1,410.00.

3. Enclosed is a copy of the prior Provisional Application No. 60/460,495 originally filed April 3, 2003 as required under paragraph (a)(6)(i) of 37 C.F.R. § 1.78.

11/30/2010 HVUONG1 00000042 10799900

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1410.00 OP

The priority claim was filed with the initial application on March 12, 2004. The priority claim included a typographical error within the priority claim wherein a serial number which should have been 60/460,49<sup>5</sup> was instead 60/460,49<sup>2</sup>. Applicants did not become aware of the typographical error until receipt of the Office Action mailed on August 26, 2010, specifically denying the priority date claimed.

The Entire Delay Between the Claim of Benefit of the Earlier Application was Unintentional

Applicants respectfully request the instant application, Serial No.10/799,900, filed March 12, 2004, receive the benefit of Provisional Application No. 60/460,495 filed April 3, 2003 for the following reason:

The entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the date this claim was filed was unintentional. Brian Coleman is one of the attorneys at Perkins Coie LLP, the firm that originally filed the the above-captioned U.S. Patent application before it was transferred to Haverstock and Owens, LLP. (See Declaration of Coleman, ¶¶ 1,2) The priority claim was filed in the initial application on March 12, 2004. (See Declaration of Coleman, ¶ 3) The initial priority claim stated: "This application claims priority to provisional application serial number 60/460,492 entitled 'ELECTRONICALLY TUNED AGILE INTEGRATED BANDPASS FILTER' and filed April 3, 2003." (See Declaration of Coleman, ¶ 4) Thus, a priority claim to the provisional application titled, "Electronically Tuned Agile Bandpass Filter," filed April 3, 2003, was made in the originally filed application. A typographical error of the serial number which should have been 60/460,49<sup>5</sup> was instead 60/460,49<sup>2</sup> was the only flaw in the priority claim. (See Declaration of Coleman, ¶ 5) Aside from this mere typographical error, the priority claim was clearly made in the originally filed application with at least the title and filing date of the application to which the priority claim was made.(See Declaration of Coleman, ¶ 9) Haverstock and Owens did not become aware of the typographical error until receipt of the Office Action mailed on August 26, 2010, specifically denying the claim to priority. Haverstock and Owens notified Brian Coleman in due course. (See Declaration of Coleman, ¶ 10 and Declaration of Haverstock, ¶ 7) Accordingly, the entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the day this claim is filed, was unintentional. (See Declaration of Coleman, ¶ 11 averring to the delay between the date the claim for benefit was due and the date of transfer, and Declaration of Haverstock, ¶ 8 averring to the delay between the date of transfer and the date of this claim)

Furthermore, there is no confusion as to which application is correctly claimed as a provisional application. The correct provisional application, 60/460,495 is titled, "Electronically Tuned Agile Bandpass Filter." (See Declaration of Coleman, ¶ 6) Contrarily, the incorrect provisional application, 60/460,492, has is titled, "Surgical Implant System." (See Declaration of Coleman, ¶ 7 and Declaration of Haverstock ¶ 5) Indeed, the incorrect provisional application also has different inventors.(See Declaration of Coleman, ¶ 8 and Declaration of Haverstock ¶ 6) Thus, it is clear that this was merely a typographical error, and priority was claimed to the provisional application titled, "Electronically Tuned Agile Bandpass Filter," filed April 3, 2003.

Benefit of the claimed priority is therefore earnestly requested as it is evident that the entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the date this claim was filed was unintentional.

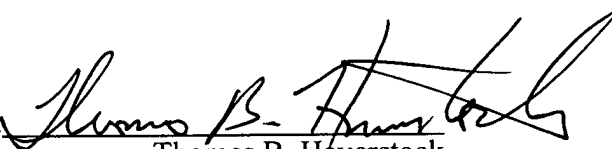
Enclosed are the petition fee, Declarations of Thomas B. Haverstock and Brian R. Coleman, and the original provisional application 60/460,495 in Support of Petition.

Applicants hereby petition in accordance with 37 C.F.R. § 1.78(a)(6), to claim the benefit, for this application under 35 U.S.C. 119(e) of prior Provisional Application No. 60/460,492 filed April 3, 2003.

The Commissioner is hereby authorized to charge payment of any fees associated with this communications or credit any overpayment to Deposit Account No. 08-1275.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: 11-23-10

By:   
Thomas B. Haverstock  
Reg. No. 32,571  
Attorneys for Applicant

CERTIFICATE OF MAILING (37 CFR § 1.8(a))  
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 11-26-10 By: CS



PATENT  
Attorney Docket No.: MAXIM-01600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Group Art Unit: 2618  
Matthew Waight et al. ) Examiner: Tran, Pablo N.  
Serial No.: 10/799,900 )  
Filed: March 12, 2004 ) **TRANSMITTAL LETTER**  
For: **ELECTRONICALLY** ) 162 North Wolfe Road  
**TUNED AGILE** ) Sunnyvale, CA 94086  
**INTEGRATED BANDPASS** ) (408)530-9700  
**FILTER** ) Customer Number 79,206

Mail Stop: Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed please find a Petition to Claim Benefit Under 35 U.S.C. 119(e), Declaration of Thomas B. Haverstock, Esq., Declaration of Brian R. Coleman, Esq., Response to the Office Action mailed August 26, 2010, and a copy of the originally filed priority document, provisional application serial number 60/460,495, for filing with the U.S. Patent and Trademark Office. Please find a check enclosed in the amount of \$1410.00 to cover the Petition to Claim Benefit surcharge.

The Commissioner is authorized to charge any additional fee or credit any overpayment to our Deposit Account No. 08-1275.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

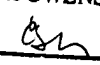
Dated: 11-23-10

By:   
Thomas B. Haverstock  
Reg. No.: 32,571

Attorneys for Applicants

CERTIFICATE OF MAILING (37 CFR § 1.8(a))  
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HAVERSTOCK & OWENS LLP.

Date: 11-26-10 By: 



PATENT

Attorney Docket No: MAXIM-01600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Group Art Unit: 2618
	)	
Matthew Waight et al.	)	Examiner: Tran, Pablo N.
	)	
Serial No.: 10/799,900	)	<b>DECLARATION OF THOMAS B.</b>
	)	<b>HAVERSTOCK, ESQ.</b>
Filed: March 12, 2004	)	
	)	
For: <b>ELECTRONICALLY TUNED</b>	)	162 N. Wolfe Road
<b>AGILE INTEGRATED BANDPASS</b>	)	Sunnyvale, California 94086
<b>FILTER</b>	)	(408) 530-9700
	)	Customer No. 79,206

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Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. I, Thomas B. Haverstock, Esq. I am a member of Haverstock and Owens, LLP and attorney for the assignee of the above-captioned U.S. Patent application (the '900 Application).
2. The prosecution file for the '900 Application was transferred to me at Haverstock and Owens, LLP on December 2, 2008, and new Power of Attorney was filed December 19, 2008. We received an Office Action on August 26, 2010, specifically denying the requested priority date of April 3, 2003 for '900 Application.
3. After consulting our client, the assignee of '900 Application, we determined that the priority claim included a typographical error within the priority claim wherein a serial number which should have been 60/460,495 was instead 60/460,492.
4. The correct provisional application, 60/460,495 is titled, "ELECTRONICALLY TUNED

AGILE INTEGRATED BANDPASS FILTER”.

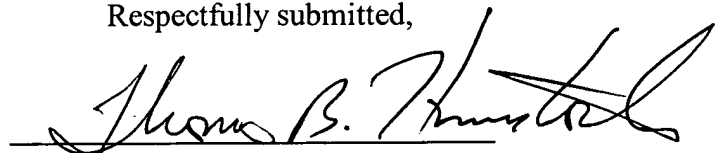
5. The incorrect provisional application, 60/460,492, has the title, “Surgical implant system.”
6. The incorrect provisional application, 60/460,492, has different inventors than the ‘900 Application, and is in a field of art that is unrelated to the ‘900 Application.
7. I did not become aware of the typographical error until the receipt of the Office Action mailed on August 26, 2010, specifically stating that the ‘900 Application is not entitled to the priority date of April 03, 2003. After consulting our client, we contacted Brian Coleman at Perkins Coie.
8. The entire delay between the date the prosecution file of the ‘900 Application was transferred to Haverstock and Owens, LLP and the date this claim was filed was unintentional.

PATENT

Attorney Docket No: MAXIM-01600

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Respectfully submitted,



Thomas B. Haverstock

Reg. No. 32,571

Date: 11-23-10

CERTIFICATE OF MAILING (37 CFR § 1.8(a))  
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450  
HAVERSTOCK & OWENS LLP.

Date: 11-26-10 By: CSH



PATENT

Attorney Docket No.: MAXIM 01600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	) Group Art Unit: 2618
	)
Matthew Waight et al.	) Examiner: Tran, Pablo N.
	)
Serial No.: 10/799,900	) <b>DECLARATION OF Brian R. Coleman,</b>
	) <b>ESQ.</b>
Filed: March 12, 2004	)
	) 162 N. Wolfe Road
For: <b>ELECTRONICALLY TUNED</b>	) Sunnyvale, California 94086
<b>AGILE INTEGRATED BANDPASS</b>	) (408) 530-9700
<b>FILTER</b>	) Customer No. 79,206
	)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. My name is Brian R. Coleman, Esq. I am one of the attorneys at Perkins Coie, LLP and I was the attorney for the assignee of the above-captioned U.S. Patent application when it was filed until December 19, 2008.
2. The prosecution file for the above-captioned U.S. Patent Application was transferred to Haverstock and Owens, LLP on December 2, 2008.
3. The priority claim for the Patent Application No. 10/799,900 was filed with the initial application on March 12, 2004.
4. The initial priority claim stated: "This application claims priority to provisional application serial number 60/460,492 entitled 'ELECTRONICALLY TUNED AGILE INTEGRATED BANDPASS FILTER' and filed April 3, 2003."



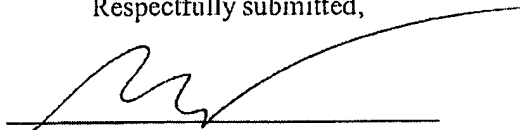
5. The priority claim included a typographical error within the priority claim wherein a serial number which should have been 60/460,49~~5~~ was instead 60/460,49~~2~~.
6. The correct provisional application, 60/460,495 is titled, "ELECTRONICALLY TUNED AGILE INTEGRATED BANDPASS FILTER".
7. The incorrect provisional application, 60/460,492, has the title, "Surgical implant system."
8. The incorrect provisional application, 60/460,49~~2~~, has different inventors than the instant Application No. 10/799,900, and is in a field of art that is unrelated to the instant application.
9. The priority claim was clearly made in the originally filed application with at least the title and filing date of the application to which the priority claim was made.
10. I did not become aware of the typographical error until Thomas Haverstock notified me of the receipt of the Office Action mailed on August 26, 2010, specifically stating that the instant U.S. Patent Application is not entitled to the priority date of April 03, 2003.
11. The entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the date that the prosecution file of the above-captioned U.S. Patent Application was transferred to Haverstock and Owens, LLP was unintentional.
12. I hereby declare that all statements made herein of my own knowledge are true and that

PATENT  
Attorney Docket No.: MAXIM 01600

all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Date: Nov. 4 2010

Respectfully submitted,



Brian R. Coleman

Reg. No. 39,415

**CERTIFICATE OF MAILING (37 CFR § 1.8(a))**  
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

**HAVERSTOCK & OWENS LLP.**

Date: 11-26-10 By: CSH